



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

MAR 10 2005

The Honorable Mitch McConnell
United States Senator
601 West Broadway, Room 630
Louisville, Kentucky 40202

Dear Senator McConnell:

Thank you for your February 18, 2005, letter on behalf of Mr. William K. Collins of BC Oil Company, Inc., concerning BC Oil's alleged violations of the Emergency Planning and Community Right-to-Know Act (EPCRA).

Compliance with EPCRA is significant because these regulations establish emergency planning requirements and community right-to-know provision for chemical safety. States and communities are provided with information necessary to protect emergency responders and aid emergency response planning in the local community. The need for timely reporting has always remained important and, with the establishment of the Office of Homeland Security, the information required under these regulations has become especially critical for guiding appropriate response activities in today's heightened security environment.

The U.S. Environmental Protection Agency (EPA) is currently in settlement discussions with BC Oil Company, Inc. EPA has been in contact with BC Oil Company, Inc., regarding the submission of documentation to verify the filing of Tier II reports for calendar years 2002 and 2003. As a result of our negotiations, on February 28, 2005, BC Oil Company and EPA reached a settlement in principle for the resolution of this enforcement action. EPA is committed to continuing to work with the company, including offering all applicable penalty reductions, in an attempt to resolve this matter.

If you have questions or need additional information from EPA, please contact me or the Region 4 Office of Congressional and Intergovernmental Relations at (404) 562-8327.

Sincerely,

A handwritten signature in dark ink, appearing to read "J. I. Palmer, Jr.", is written over a faint, circular official stamp.

J. I. Palmer, Jr.
Regional Administrator

shot Deutch

BC OIL COMPANY, INC.

Bill Collins Oil Co., Inc.

P.O. Box 275
Greensburg, KY 42743

270-932-3120
Fax 270-932-6383
email: bcoll@kh.net

February 15, 2005

Senator Mitch McConnell
601 West Broadway, Suite 630
Louisville, KY 40202

ATT: Ms. Melanie Wilson

FAXED: 502-582-5326

Senator McConnell:

Per my telephone conversation today with Ms. Wilson, please find included with this letter an Enforcement Letter from the federal EPA as well as other supporting documents.

We own and operate a small bulk fuels facility in Greensburg, Kentucky, and the Enforcement Letter is in response to our not filing a Tier Two Emergency and Hazardous Chemical Inventory form for the calendar years of 2002 and 2003, with the Kentucky Emergency Response Commission (copy of completed forms attached) and including the \$80.00 in fees. These forms are due by March 1 of each year for the prior year.

Prior to calendar year 2002, we received a letter from the local agency (copy attached) reminding us to file the forms. Since that time, we have not received any letter or notices reminding us to file or informing us that we were delinquent in filing these forms. Instead we received a phone call last Wednesday (February 9, 2005) from John Deutsch with the EPA in Atlanta informing us we were in violation and an Enforcement Letter would be forthcoming. He said that our case had been referred to him by the Kentucky Emergency Response Commission in Frankfort. I advised Mr. Deutsch that we were unaware of any violation, that if we were it was unintentional and that we would immediately file the forms and fax him a copy as evidence. He informed me that an Enforcement Letter would be sent anyway with a civil penalty. Since we were delinquent, I assumed a penalty of around \$1,000.

When I received the enforcement letter yesterday, I was shocked to see a penalty of \$50,253 which could be adjusted down to \$17,751. I believe that either amount is grossly unfair and out of reason based upon the fact that only \$80.00 in fees is involved and that

all the forms for all the years are the same because the same gallonage reporting parameters apply to all years involved for our company.

Would you please look into this situation on our behalf? We are a small company that serves a small community and in an economic period of competing against the "Wal-Marts" selling gasoline below cost and the \$17,751 would result in an undue hardship on us and possibly our closing our bulk fuel facility.

Sincerely,

W. K. Collins

William K. Collins

President

Social Security [REDACTED]

Federal ID #61-1156345

Exemption 6 Personal Privacy



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
81 FORSYTH STREET
ATLANTA, GEORGIA 30303-8980

February 11, 2005

4 APT-EES

FEDERAL EXPRESS

Mr. Bill Collins
Owner
BC Oil Company, Inc.
202 Durham Street
Greensburg, Kentucky 42743

2/14/05
W.K.C.

SUBJECT: Notice of Violation and Opportunity to Show Cause

Dear Mr. Collins:

Based on information provided by the Kentucky Emergency Response Commission, it has been determined that your facility located at 202 Durham Street, Greensburg, Kentucky, is in violation of Section 312 of EPCRA, 42 U.S.C. § 11022, and the regulations promulgated at 40 CFR Part 370. This letter explains the nature of these violations as we understand them given the information currently available to us.

Although settlement discussions may take place at subsequent stages of the enforcement process, we are, by this letter, offering the opportunity to conduct settlement discussions prior to the filing of a complaint. If agreement on a settlement can be reached, the settlement would be implemented through a Consent Agreement and Final Order. Outlined below is a summary of the violations and application of EPA's Enforcement Response Policy (ERP) for Sections 304, 311 and 312 of EPCRA. A copy of this ERP is enclosed.

I. Summary of the Violations

EPCRA Section 312 requires the owner or operator of a facility required under the Occupational Safety and Health Act (OSHA) of 1970 to prepare or have available a Material Safety Data Sheet (MSDS) for a hazardous chemical to submit by March 1 of each year a completed emergency and a hazardous chemical inventory form (Tier II form). The form must contain information on all hazardous chemicals present at the facility during the previous calendar year in amounts that meet or exceed relevant regulatory thresholds and must be submitted to the State Emergency Response Commission (SERC), the Local Emergency Planning Committee (LEPC), and the fire department with jurisdiction over the facility.

EPA has determined that BC Oil Company had low sulfur diesel, high sulfur diesel, kerosene, and gasoline on-site above the reporting threshold of 10,000 pounds for calendar years 2003 and 2002 at their bulk storage facility. However, BC Oil Company did not submit the Tier II forms by March 1 of the following year for calendar years 2003 and 2002 as required under EPCRA Section 312.

Pursuant to Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), and 40 CFR Part 19, EPA may assess a penalty of not more than \$32,500 for each violation of Section 312 that occurred on or after March 15, 2004.

II. Application of the Penalty Policy

The ERP is used by EPA to ensure that enforcement actions for violations of EPCRA are "legally justifiable, uniform and consistent" (ERP, Page 3). As an internal Agency matter, we follow the ERP when settling EPCRA enforcement actions. This is EPA's primary means for ensuring that similar violations receive similar treatment. Although, as the ERP explains, there may be circumstances that warrant deviation from the ERP, we must be able to explain and document any such deviations.

The ERP directs us to calculate a penalty based on consideration of the statutory factors found in EPCRA Section 325(b)(1)(C). This is accomplished through a two-step process: (1) the determination of a "base penalty," and (2) allowing for applicable adjustments.

A. Base Penalty Calculation

For EPCRA Section 312 violations occurring after March 15, 2004, the base penalty is calculated according to the matrix found on Page 21 of the ERP. During 2003, there was low sulfur diesel present at BC Oil Company Inc. in amounts greater than the reporting threshold. A Tier II form was not submitted by March 1, 2004, as required. For this violation, the Extent Level is 1 (failure to submit the Tier II form within 30 calendar days of the reporting deadline) and the Gravity Level is B (low sulfur diesel was present in amounts greater than five times but less than or equal to ten times the reporting threshold). According to the matrix, the appropriate penalty range for Level 1B is \$24,375 - \$16,251. Based on review of the circumstances, we believe the minimum amount of the penalty range, \$16,251, is appropriate. As explained in the ERP, EPA considers the failure to report to the SERC, the LEPC, and the local fire department as separate violations. Thus, the penalty for these three violations for failing to report low sulfur fuel for 2003 amounts to \$48,753 (3 x \$16,251).

For previous years of noncompliance, a flat penalty of \$1,500 per year should be assessed, except where the facts and circumstances warrant the imposition of the full gravity-based penalty. Violations for failing to submit completed Tier II forms for low sulfur diesel for year 2002 would result in a \$1,500 penalty. This results in a maximum base penalty of \$50,253 [(48,753 (year 2003) + \$1,500 (year 2002))].

For purposes of settlement and since BC Oil Company, Inc. does not have any previous EPCRA violations, we are willing to compress the three reporting location violations (i.e., SERC, LEPC, and fire department), for the EPCRA Section 312 current year violations into one violation. This would result in a proposed base penalty, for settlement purposes only, of \$17,751 [(\$16,251 (year 2003 + \$1,500 (year 2002))].

B. Adjustments to the Base Penalty

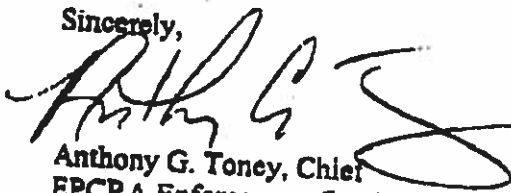
Consistent with the factors set forth in EPCRA Section 325(b)(1)(C), the ERP directs us to consider various factors relevant to the violator's situation. We believe the following "adjustment factors" described below may be applicable for reduction of the \$17,751 base penalty.

The ERP allows for reductions of the base penalty based upon the company's "attitude." The penalty may be reduced by up to 25% based upon the cooperation shown throughout the compliance evaluation/enforcement process. Factors include a company's cooperation and preparedness during the settlement process, and speed and completeness in achieving compliance. One of the reasons for our decision to send this letter prior to filing a complaint is to provide BC Oil Company, Inc. with an opportunity to maximize this particular avenue for flexibility in the ERP. Additionally, note that the ERP allows for an additional 10% reduction where a settlement occurs within 90 days of issuance of the complaint and a 15% downward adjustment for small business.

In presenting this analysis of the ERP, we hope to provide a foundation for settlement discussions should BC Oil Company, Inc. accept this invitation to enter into such a dialogue. Additionally, for settlement purposes only, we would consider reducing the proposed penalty of \$17,751 using any applicable adjustment factors in the ERP.

If BC Oil Company, Inc. wishes to engage in settlement dialogue, we request that you contact either Mr. Robert Bookman at (404) 562-9169 or Mr. John Deutsch at (404) 562-9185 by February 28, 2005. You may also respond in writing with a specific settlement offer that is responsive to the ERP and to EPA's settlement requirements as outlined in this letter. Failure to respond by February 28, 2005, will be taken as an indication that settlement negotiations should not be expected at this time.

Sincerely,


Anthony G. Toney, Chief
EPCRA Enforcement Section

Enclosure: ERP for EPCRA

January 25, 2002

Dear Green County Business,

The Green County Emergency Planning Committee (LEPC) is dedicated to giving you the information and assistance to complete your Title III, "Community Right To Know Law", requirements for the Commonwealth of Kentucky and the Federal EPA.

Please take note of the information below, that gives the correct 2002 addresses for mailing the three copies of your Tier II form. We have recently completed an audit of the counties reporting businesses, and found several errors by businesses and agencies in who they send copies too. We hope this will assist you.

If you have further questions, or need help in completing the paperwork, please feel free to call James W. Adkins (Chairman) @ 270-932-4258, or Malcolm Franklin (KyEM) @ 606-677-4133.

When Tier II reports are completed you are required to mail the reports to the following three locations.

1. Original Report and any fee required to:
Kentucky Emergency Response Commission
EOC, Boone Center
Frankfort KY 40601-8169
2. Copy of report and MSDS Sheets to:
Green County LEPC
203 West Court St
Greensburg, KY 42743
3. Copy to your local Fire Department

Carolyn S. Adkins
Secretary / Treasurer.

Emergency Contact
 Name: William K. Collins Phone: (1922) 37
 Mail Address: Co 001275
 Emergency Contact: Groesbeek Ky 42743

Name: Chillie Schecterson Title: Manager
 Phone: 502-582-6870 M.H. Phone: (1922) 615

Name: William K. Collins Title: Owner
 Phone: 502-582-5812 M.H. Phone: (1922) 3806

Emergency
 Name: Oil Callie Oil Co. Inc.
 Address: 202 DuPont Street
 City: Cincinnati State: OH Zip: 45203

Phone: 5171 Fax: 5171

Emergency: Read all instructions before completing form

Chemical Description	Physical and Health Hazards (check off all that apply)	Inventory	Storage Codes and Location (Non-Confidential)
CAS <u>5076-90-2</u> Chem. Name: <u>Acetic Acid</u> Haz. ID: <u>1</u> () () () () () P: <u>1</u> () () () () () H: <u>1</u> () () () () () R: <u>1</u> () () () () () S: <u>1</u> () () () () ()	<input checked="" type="checkbox"/> Flammable <input checked="" type="checkbox"/> Corrosive <input checked="" type="checkbox"/> Irritant <input checked="" type="checkbox"/> Toxic <input checked="" type="checkbox"/> Volatile <input checked="" type="checkbox"/> Other: <u>Acidic</u>	Min. Daily Amount (gals): <u>0.3</u> Avg. Daily Amount (gals): <u>0.3</u> No. of Days On-site (days): <u>316</u>	Storage Location: <u>Within Diked Area & on Trucks</u>
CAS <u>5076-90-2</u> Chem. Name: <u>Acetic Acid</u> Haz. ID: <u>1</u> () () () () () P: <u>1</u> () () () () () H: <u>1</u> () () () () () R: <u>1</u> () () () () () S: <u>1</u> () () () () ()	<input checked="" type="checkbox"/> Flammable <input checked="" type="checkbox"/> Corrosive <input checked="" type="checkbox"/> Irritant <input checked="" type="checkbox"/> Toxic <input checked="" type="checkbox"/> Volatile <input checked="" type="checkbox"/> Other: <u>Acidic</u>	Min. Daily Amount (gals): <u>0.3</u> Avg. Daily Amount (gals): <u>0.3</u> No. of Days On-site (days): <u>316</u>	Storage Location: <u>Within Diked Area & on Trucks</u>
CAS <u>5076-90-2</u> Chem. Name: <u>Acetic Acid</u> Haz. ID: <u>1</u> () () () () () P: <u>1</u> () () () () () H: <u>1</u> () () () () () R: <u>1</u> () () () () () S: <u>1</u> () () () () ()	<input checked="" type="checkbox"/> Flammable <input checked="" type="checkbox"/> Corrosive <input checked="" type="checkbox"/> Irritant <input checked="" type="checkbox"/> Toxic <input checked="" type="checkbox"/> Volatile <input checked="" type="checkbox"/> Other: <u>Acidic</u>	Min. Daily Amount (gals): <u>0.3</u> Avg. Daily Amount (gals): <u>0.3</u> No. of Days On-site (days): <u>316</u>	Storage Location: <u>Within Diked Area & on Trucks</u>

Optional Attachments

☐ I have attached a site plan

☐ I have attached a list of the chemicals at this site

☐ I have attached a description of the site and other relevant information

Check Appropriate

☐ 2120 lbs attached

☒ 200 lbs attached

☐ No lbs attached

Signature: William K. Collins Date: 2/16/05

THE TOWNS EMERGENCY AND HAZARDOUS CHEMICAL INVENTORY

Name Bill Collins Oil Co. Inc.
Address 202 Durham Street
City Greenville County Greenville State SC Zip 29615
Phone 5171 Date of Birth 1/1/71

Report
Information
by Chemical

Inventory Number 101
Date of Inventory 1/1/71
Inventory Location Greenville, SC

Inventory Number 101
Date of Inventory 1/1/71
Inventory Location Greenville, SC

Inventory Number 101
Date of Inventory 1/1/71
Inventory Location Greenville, SC

Important: Read all instructions before completing form

Reporting Period From January 1 to December 31, 1971

Chemical Description	Physical and Health Hazards (check all that apply)	Inventory	Storage Codes and Location (Non-Confidential)
CAS # 100-20-2 Chem. Name <u>Acetic Acid</u> CAS # <u>100-20-2</u> Mol. Wt. <u>60.05</u> Boiling Pt. <u>118</u> Freezing Pt. <u>16.6</u> Density <u>1.05</u> Hazardous? <u>Yes</u>	<input type="checkbox"/> Flammable <input type="checkbox"/> Corrosive <input type="checkbox"/> Irritant <input type="checkbox"/> Toxic <input type="checkbox"/> Other (specify)	Max. Daily Amount (cups) <u>0.13</u> Avg. Daily Amount (cups) <u>0.13</u> No. of Days Consumed (days) <u>316</u>	Storage Location <u>Within Diked Area</u> <u>on Trucks</u>
CAS # 100-20-2 Chem. Name <u>Acetic Acid</u> CAS # <u>100-20-2</u> Mol. Wt. <u>60.05</u> Boiling Pt. <u>118</u> Freezing Pt. <u>16.6</u> Density <u>1.05</u> Hazardous? <u>Yes</u>	<input type="checkbox"/> Flammable <input type="checkbox"/> Corrosive <input type="checkbox"/> Irritant <input type="checkbox"/> Toxic <input type="checkbox"/> Other (specify)	Max. Daily Amount (cups) <u>0.13</u> Avg. Daily Amount (cups) <u>0.13</u> No. of Days Consumed (days) <u>316</u>	Storage Location <u>Within Diked Area</u> <u>on Trucks</u>
CAS # 100-20-2 Chem. Name <u>Acetic Acid</u> CAS # <u>100-20-2</u> Mol. Wt. <u>60.05</u> Boiling Pt. <u>118</u> Freezing Pt. <u>16.6</u> Density <u>1.05</u> Hazardous? <u>Yes</u>	<input type="checkbox"/> Flammable <input type="checkbox"/> Corrosive <input type="checkbox"/> Irritant <input type="checkbox"/> Toxic <input type="checkbox"/> Other (specify)	Max. Daily Amount (cups) <u>0.13</u> Avg. Daily Amount (cups) <u>0.13</u> No. of Days Consumed (days) <u>316</u>	Storage Location <u>Within Diked Area</u> <u>on Trucks</u>

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this report, and that based on my inquiry of those persons who furnished the information, I believe that the information is true and correct.

Signature [Signature] Date 1/15/71

Optional Attachments

Check Appropriate

☐ I have attached a site plan

☐ I have attached a list of the coordinate information

☐ I have attached a description of other and other relevant information

